

REMARKS

The Office Action mailed October 3, 2005 has been carefully reviewed along with the references cited therein. In the Office Action, the Examiner indicated that claims 7-18 and 25-30 are withdrawn from consideration as being directed to non-elected species. Claims 4-6 and 23-24 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner also indicated that the amendment filed 8/22/2005 is objected to under 35 U.S.C. § 132(a) because, according to the Examiner, some amendments made to the specification introduce new matter into the disclosure. The drawing Replacement Sheets (3) filed on 8/22/2005 have been approved.

Claims 1, 19, and 22-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Noe (U.S. patent No. 4,600,036). Claims 1-3, and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Peterson (U.S. Patent No. 5,450,685). Claims 19-20 and 22 are rejected under 35 U.S.C. § 102(e) as being anticipated by Audino (U.S. Patent No. 6,202,336). The Examiner has indicated that claims 4-6 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the indication of allowable subject matter.

As for the objections to the amendments made to the specification in the amendment filed 8/22/2005, Applicant respectfully submits that the amendments to the specification, namely "[a] bolt **210** (FIGURE 9C) is selectively received inside the bolt retaining plug **212**, the expansion tube **214** and the rear compression base **216** to draw the rear compression base and the plug **212** towards one another similar to bolt **10**, which is described above[.]" do not add any new matter to the disclosure. First, Applicant directs the Examiner's attention to originally filed FIGURE 9C, which disclosed a bolt 210. Second, Applicant directs the Examiner's attention to the paragraph beginning on page 41, line 24 of Applicant's originally filed disclosure, which described bolt 210 "which in one embodiment is a male hexagon key bolt similar to the bolt 10 described above[.]" Also, the paragraph beginning on page 39, line 15 of Applicant's original disclosure states that the adjustable barrel plug assembly includes a flanged bolt-retaining plug 212 that is similar to

the bolt-retaining plug 12, an expansion tube 214 that is similar to the expansion tube 14 and a rear compression base 216 that is similar to the rear compression base 16, each of which were described above.

At page 7, line 5 of Applicant's original disclosure it states that "[t]he flanged bolt-retaining plug 12 is sized to and does receive and retain the bolt 10." At page 8, line 29-31 it states that "[t]he first end of the compression base 16 ... has a threaded inner diameter arranged to receive the threaded end 10a of the bolt 10." At page 11, line 9 it states that "[a]ccordingly, due to the threaded engagement between the compression base 16 and the bolt 10 and the bushing 10c abutting the substantially normal annular surface created by the two tiered inner diameter of the cylindrical member 12a, the relative rotation of the bolt 10 with respect to the compression base 16 causes the compression base 16 and the flanged bolt-retaining plug 12 to be drawn together thereby longitudinally compressing the expansion tube 14 therebetween." Accordingly, support for the amended portion of the specification does exist in the originally filed disclosure.

Claim 1 has been amended to recite that the adjustable extension rod assembly is configured to adjust the length of the device and includes an engagement mechanism that selectively engages a surface of the tubular extension to fix the location of the slidable rod in relation to the tubular plug extension. Support for this amendment is found, among other places, in original claim 20. Furthermore, amended claim 1 is readable on the elected species. Neither Noe nor Peterson discloses such a configuration. In Noe, the portion that the Examiner indicates to be the adjustable extension rod assembly (58, 56) is not configured to adjust the length of the device. In Noe, the length of the device is fixed. In Peterson, the portion that the Examiner indicates to be the adjustable extension rod assembly (12, 32) does not include an engagement mechanism that selectively engages a surface of the tubular extension to fix the location of the slidable rod in relation to the tubular plug extension. Accordingly, claim 1, and those claims that depend from claim 1 – including the withdrawn claims – are in condition for allowance.

Claim 19, has been amended to recite "the tubular extension and the slidable rod cooperating with one another to allow selective movement of the rod in and out of the bore and to inhibit rotational movement of the rod in the bore." Support for this

amendment is found in the paragraph beginning at page 41, line 15. Furthermore, amended claim 19 is readable on the elected species. Neither Noe, Peterson, nor Audino discloses the aforementioned limitation. In Noe, the nut body 56 does not inhibit rotational movement of the shank 66 since the nut body is internally threaded and the shank 66 is externally threaded. In Peterson, the oversized portion 16 does not inhibit rotational movement of the anchor shaft 28. In Audino, the expandable outer sleeve 26 does not inhibit rotational movement of the inner rod 22. Accordingly, claim 19, and those claims that depend from claim 19 – including the withdrawn claims – define over the cited references.

As for the indefiniteness rejection of claim 4, Applicant has amended the claim to clarify that the adjustable rod assembly further comprises a sliding compression member and a sliding expansion member. These terms do not relate back to the first compression member and the second compression member of claim 1.

As for claim 5, since the sliding compression member and the rod are operatively connected and the rod is received in the tubular plug extension (see claim 1) expansion of the sliding expansion member against the tubular plug extension can secure the rod in relation to the tubular plug extension.

As for claim 6, the term “additional” has been placed in front of “joining member” to differentiate between the previously introduced joining member.

As for the rejection of claim 23, claim 22, from which claim 23 depends, has been amended to provide an antecedent basis for the term “expandable.”

Claim 31 has been added to the application. Support for this claim is found, at least, in FIGURE 9D, and the accompanying description. Claim 31 reads on the elected species.

Claim 32 has been added to the application. Support for this claim is found, at least, in FIGURE 9E, and the accompanying description. Claim 32 reads on the elected species. Claims 33-35 have also been added to the application. Support for these claims are located, at least, in FIGURES 9E, 10B, and 12B, respectively. Since these claims depend from claim 31, examination of these claims is respectfully requested.

CONCLUSION

Upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependant form and for the reasons detailed above, it is respectfully submitted all claims, including the withdrawn claims, remaining in the application are now in condition for allowance.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

December 30, 2005
Date

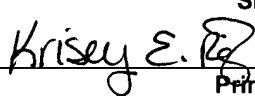


Jonathan A. Withrow, Reg. No. 54,548
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579
216-861-5582

CERTIFICATE OF MAILING OR TRANSMISSION

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

- ☒ deposited with the United States Postal Service as First Class mail, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
- ☐ transmitted via facsimile in accordance with 37 C.F.R. § 1.8 on the date indicated below.
- ☐ deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Express Mail Label No.:	Signature 
Date December 30, 2005	Printed Name Krisey E. Riley

N:\TKMZ\200002\3A\ker0000486V001.doc